

Problems with the 2012 Texas A & M Study on “Castle Doctrine/Stand Your Ground” Laws

We have heard references to a working paper that was to have been published in *the Journal of Human Resources*, which purports to demonstrate that implementation of Castle Doctrine and Stand Your Ground laws do not deter criminals, and, in fact, result in increased rates of unjustifiable homicide. The title of the work is “Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from Expansions to Castle Doctrine.” The study was done by Cheng Cheng and Mark Hoekstra, both of the Texas A & M Department of Economics.

The study looked at 21 states that passed Castle Doctrine/Stand your Ground laws from 2000 to 2010. (Colorado’s Castle Doctrine law was passed before the time period reviewed in the study.) We are not sure why this particular time period was selected and can not identify the funding source for the research.

Our perusal of this study indicates some problems with the data used to reach the researchers’ conclusions that self-defense laws do not deter criminals and increase the rate of unjustifiable homicide. There does not seem to be much peer review of the study. Howard Nemerov, a medical researcher at the same university, reported that, “However, there are a number of errors, assumptions, and miscalculations in their research that justify revisiting the question of whether or not Castle Doctrine laws have any impact on crime.”

The primary issue that we identified as a problem is the definition of “justifiable homicide” in FBI reporting guidelines. This issue would seem to lead to under-reporting of valid defensive gun uses in statistics that are fundamental to the conclusions drawn by the researchers. A quotation from the FBI guidelines on Page 10 of the online version of the paper illustrates this situation.

“The Uniform Crime Reporting Handbook emphasizes that by definition, justifiable homicide occurs in conjunction with other offenses, and those other offenses must be reported... An example given of ... justifiable homicide is “When a gunman entered a store and attempted to rob the proprietor, the storekeeper shot and killed the felon” (Uniform Crime Reporting Handbook, 2004). An example of what would NOT qualify as a justifiable homicide is “While playing cards, two men got into an argument. The first man attacked the second with a broken bottle. The second man pulled a gun and killed his attacker...” (Uniform Crime Reporting Handbook, 2004). We note that under expanded castle doctrine, the hypothetical shooter may have been justified as acting in self-defense, ... the reporting handbook ... states that this would not qualify as a justifiable homicide under the guidelines.”

By extension, if you are walking down the street and accidentally bump into a gang member who pulls a knife and tries to cut your throat, your shooting in self-defense of that individual would not be reported as a justifiable homicide. In 1998, Dr. Gary Kleck, estimated that about 80% “of legally justifiable homicides are not reported that way to the FBI.” While the authors of the study claim to adjust for this problem by looking for “*relative changes in legally justified homicide...*,” questions persist.

The researchers’ finding that Castle Doctrine/Stand Your Ground laws do not deter crime is contradicted by extensive research from the Lott-Mustard Study, a study done by Doctors Wright and Rossi for the US Department of Justice, and writing by Nobel Laureate Dr. Gary Baker. This body of work indicates that criminals do risk assessments before committing crimes and that increasing that risk influences their selection of victims. Virtually all spree killing in America and other countries have taken place in “gun free” zones, i.e., “criminal safe free fire zones.” The dramatic, almost 90% reduction in rape in Orlando, Florida following police armed self-defense training of about 6,000 women in 1966 also shows a deterrent effect on criminal behavior, when potential victims are armed and prepared to defend themselves.

Cheng, Cheng, Hoekstra, Mark, “Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from Expansions to Castle Doctrine, working paper forthcoming in *the Journal of Human Resources* 2012.

Nemerov, Howard Ross, *Nemerov on Castle Doctrine Laws and Violent Crime*, abstract posted on CrimProf Blog, December 28, 2012.